

(2) Since this heinous tragedy, the citizens of Jasper, from all segments of the community, have come together to condemn the killing and honor the memory of Mr. Byrd.

(3) The Sheriff of Jasper County, Billy Rowles, spoke for the community when he appealed that the nation not "label us because of this random, brutal act."

(4) Mr. and Mrs. James Byrd, Sr., called for "justice and peace," asking that "we . . . get this over and put this behind us."

(5) The community's response reflects the spirit that other communities across the nation have shown in the face of recent incidents of random and senseless violence.

## SEC. 2. CONDEMNING THE KILLING OF JAMES BYRD, JR., AND COMMENDING THE COMMUNITY OF JASPER.

The Senate—

(1) condemns the actions which occurred in Jasper, Texas as horrific and intolerable, to be rejected by all Americans;

(2) expresses its deepest condolences to the Byrd family for their loss and the pain it caused;

(3) notes the strong religious faith of the Byrd family, under the inspired leadership of James Sr., and Stella Byrd, and the Reverend Kenneth Lyons, Pastor of the Greater New Bethel Baptist Church, that has helped the family through this most trying time;

(4) sees in the Byrd family reaction to this tragedy the inspiration for hope, peace, and justice in Jasper and throughout the United States;

(5) commends the leadership shown by Jasper County Sheriff Billy Rowles, City of Jasper Mayor R.C. Horn, and other community leaders in responding to this tragedy;

(6) urges that law enforcement officials at all appropriate levels continue with the full and fair investigation into all of the facts of the case;

(7) urges prosecutors to proceed with a fair and speedy trial to bring the perpetrators of this outrageous crime to justice.

## AMENDMENTS SUBMITTED

### NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

#### GORTON AMENDMENT NO. 2705

Mr. GORTON proposed an amendment to amendment No. 2437 proposed by Mr. DURBIN to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

At the end of the pending amendment, add the following:

#### SEC. . LIMIT ON ATTORNEYS' FEES.

(a) FEES COVERED BY THIS SECTION.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, attorneys' fees for—

(1) representation of a State, political subdivision of a state, or any other entity listed in subsection (a) of Section 1407 of this Act;

(2) representation of a plaintiff or plaintiff class in the Castano Civil Actions described in subsection (9) of Section 701 of this Act;

(3) representation of a plaintiff or plaintiff class in any "tobacco claim," as that term is defined in subsection (7) of Section 701 of this Act, that is settled or otherwise finally resolved after June 15, 1998;

(4) efforts expended that in whole or in part resulted in or created a model for programs in this Act,

shall be determined by this Section.

#### (b) ATTORNEYS' FEES.—

(1) JURISDICTION.—Upon petition by the attorney whose fees are covered by subsection (a), the attorneys' fees shall be determined by the last court in which the action was pending.

(2) CRITERIA.—In determining an attorney fee awarded for fees subject to this section, the court shall consider—

(A) The likelihood at the commencement of the representation that the claimant attorney would secure a favorable judgment or substantial settlement;

(B) The amount of time and labor that the claimant attorney reasonably believed at the commencement of the representation that he was likely to expend on the claim;

(C) The amount of productive time and labor that the claimant attorney actually invested in the representation as determined through an examination of contemporaneous or reconstructed time records;

(D) The obligations undertaken by the claimant attorney at the commencement of the representation including—

(i) whether the claimant attorney was obligated to proceed with the representation through its conclusion or was permitted to withdraw from the representation; and

(ii) whether the claimant attorney assumed an unconditional commitment for expenses incurred pursuant to the representation;

(E) The expenses actually incurred by the claimant attorney pursuant to the representation, including—

(i) whether those expenses were reimbursable; and

(ii) the likelihood on each occasion that expenses were advanced that the claimant attorney would secure a favorable judgment or settlement;

(F) The novelty of the legal issues before the claimant attorney and whether the legal work was innovative or modeled after the work of others or prior work of the claimant attorney;

(G) The skill required for the proper performance of the legal services rendered;

(H) The results obtained and whether those results were or are appreciably better than the results obtained by other lawyers representing comparable clients or similar claims;

(I) The reduced degree of risk borne by the claimant attorney in the representation and the increased likelihood that the claimant attorney would secure a favorable judgment or substantial settlement based on the progression of relevant developments from the 1995 Williams document disclosures through the settlement negotiations and the eventual federal legislative process;

(J) Whether this Act or related changes in State laws increase the likelihood of the attorney's success;

(K) The fees paid to claimant attorneys that would be subject to this section for the provisions of subsection (3);

(L) Such other factors as justice may require.

(3) EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall not apply to attorneys' fees actually remitted and received by an attorney before June 15, 1998.

(4) LIMITATION.—Notwithstanding any other provision of law, separate from the reimbursement of actual out-of-pocket expenses as approved by the court in such action, any attorneys' fees shall not exceed a per hour rate of—

(A) \$4000 for actions filed before December 31, 1994;

(B) \$2000 for actions filed on or after December 31, 1994, but before April 1, 1997, or for efforts expended as described in subsection

(a)(4) of this section which efforts are not covered by any other category in subsection (a);

(C) \$1000 for actions filed on or after April 1, 1997, but before June 15, 1998;

(D) \$500 for actions filed after June 15, 1998.

(c) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

## AUTHORITY FOR COMMITTEE TO MEET

### SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Monday, June 15, 1998, at 2 p.m. to hold a hearing in Room 226, Senate Dirksen Building, on: "S. 1166, the Federal Agency Compliance Act," and "A Review of the Judgeship Needs of the 10th Circuit."

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### TRIBUTE TO DR. ERNEST TOMASI

• Mr. LEAHY. Mr. President, the real treasure of our state of Vermont is the people who make up our special state. One whom I have known all my life is Dr. Ernest Tomasi of Montpelier. It seems from the time I was a youngster, we knew the Tomas, and partly because like Dr. Tomasi, my mother was an Italian American who knew almost every Italian American family in the area.

Dr. Tomasi was a true hero of WWII, but like so many, rarely ever spoke about what he did. In one rare instance, he was interviewed for The Times Argus, and I ask that the article be printed in the RECORD.

I also want to applaud his dedication to the people of Montpelier. Many, many of those from my hometown received medical help and, when many could not pay for it, they received it as a gift from Dr. Tomasi. He was a hero abroad, but he has also always been a hero at home.

The article follows:

[From the Times Argus, May 30, 1998]

MONTPELIER VET RECALLS HIS SERVICE

(By David W. Smith)

MONTPELIER.— Dr. Ernest Tomasi likes to tell the story of the bravest act he witnessed on the European fields of battle during World War II.

It was shortly after the invasion of the French coastline at Normandy by American troops in June of 1944, and Tomasi had been temporarily assigned to a medical unit with the 3rd Battalion, 116th Regiment of the 29th Infantry Division.

Hunkered down amongst inland hedge-rows—enormous earthen barriers topped